IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 21087 of 2004

Between:

Gandham Veera Venkata Subba Rao, S/o Raja Ram,
R/o Brodipet, IIIrd Lane, Palakol, West Godavari District

..... PETITIONER

AND

1 The Palakol Municipal Council, Palakol, West Godavari District,
rep.by its Commissioner
2 Sri Sidagam Papa Rao, Chairperson, Palakol Municipal Council,
Palakol, West Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 1st respondent passed in ROC No.3304/01/E1, dated 1-11-2004 in removing the petitioner's name from the list of the Municipal Civil Contractors and putting his name in black list, at the instance of the 2nd respondent is illegal, arbitrary and violative of principles of natural justice and consequently set-aside the same.

Counsel for the Petitioner:MR.POLISETTI RADHA KRISHNA

Counsel for the Respondents: MR.DANTU.SRINIVAS

The Court, at the stage of admission, made the following :

ORDER

Petitioner, who was successful tenderer pursuant to the tender notice dated 20.9.2002, for construction of five shop rooms shopping complex in ground floor and Library Room in the I Floor in Ward No.18 of the Palakol Municipality, was allotted with the said work and the same has to be completed within 90 days from the date of handing over the site. By the notice dated 31.3.2003 the petitioner was directed by the first respondent-Municipality to start the work of demolition of the existing building and accordingly he proceeded to demolish the work for construction of the new building in its place. Since the petitioner could not complete the work within the stipulated time, the first respondent-Municipality by notice dated 29.7.2004 informed the petitioner that inspite of special notice issued to him on 15.4.2004 for completion of the construction, for which, the petitioner replied on 20.7.2004 and though sought time of three months by undertaking to complete the work, failed to do so. Further, the petitioner was called upon to complete the said work within two months i.e. on or before 27.9.2004 and intimate the completion of the work to the Commissioner, Palacol Municipality, failing to do so, his name will be deleted from the list of the contractors by canceling the contract work, which will be executed through other agency and the loss sustained will be recovered from the petitioner. Since the petitioner could not complete the work even by the date 27.9.2004, the first respondent passed the impugned orders dated 1.11.2004 removing the name of the petitioner from the list of the contractors and further directed the Municipal Engineer to take action for recovery of loss sustained by the Municipality, from the petitioner.

Admittedly, the petitioner has not intimated the completion of the work, as demanded by notice dated 29.7.2004, but simply asserts that he completed the work within the said period and handed over the possession to the respondents and contends that the impugned proceedings issued by the first respondent dated 1.11.2004 removing

the name of the petitioner from the list of the contractors and intimating that he has not completed the work, is arbitrary and illegal.

Learned counsel for the petitioner submits that the impugned order is in violation of principles of natural justice since no notice whatsoever was issued to the petitioner before passing the impugned order. It is contended that when the petitioner completed the work in all respects and handed over the possession of the same by due intimation to the first respondent that the work has been completed, the issuance of impugned order, at the instance of second respondent, is liable to be set aside.

Though by notice 29.7.2004 petitioner was specifically informed about the proposed action if he fails to complete the construction within the time stipulated by intimating the completion of the same, no communication is sent by the petitioner about his completion of the work and handing over the possession of the same. In view of the same, this Court cannot accept the contention of the petitioner that he completed the construction in all respects. Further, against the impugned order removing the name of the petitioner from the list of the contractors, petitioner will have a right of appeal to the Chief Engineer, Public Health, as per sub-rule (8) of Rule 6 of A.P. Municipalities (Registration of Contractors) Rules, 1978. In view of the same, petitioner is at liberty to file an appeal before appellate authority within two weeks from today and can raise all the grounds available to him, and on such filing of the appeal, the appellate authority shall consider and dispose of the same.

With the above observations, the writ petition is disposed of. No costs.

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A. GOPAL REDDY. J.

18th November, 2004

tsr.

To

1 The Palakol Municipal Council, Palakol, West Godavari District, rep.by its Commissioner
2 Sri Sidagam Papa Rao, Chairperson, Palakol Municipal Council, Palakol, West Godavari District

3 Two C.D. copies.